REMARKS

A Request for Continued Examination (RCE) is being filed concurrently herewith, along with the required fee. Accordingly, it is respectfully requested that this Reply to Final Office Action be entered and favorably considered. It is respectfully urged that no new matter has been added to the claims by the amendments to the claims made herein for the Examiner's kind consideration.

The last Office Action, which has been made final, and the helpful comments of the Examiner have been carefully considered. The claims have been amended in a sincere effort to define more clearly and more specifically features of Applicant's invention which distinguish over the art of record.

At the outset, Applicant has reviewed the specification and has found a few minor typographical errors. These errors have now been corrected. Support for the changes made to the specification may be found in the drawings to which the corrected paragraphs refer. Entry of the changes to the specification noted herein is respectfully requested.

Claims 1-16 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0126993 (Sakuramoto, et al.). It is respectfully urged that the claims, as now amended, patentably distinguish over the Sakuramoto, et al. published application for several reasons.

Applicant's apparatus and method claims pending in the application recite that the file information which is written into the non-volatile storing area identifies the data file which is designated at each time that the designation of the data files is updated. Furthermore, the claims define that the reference data file is a data file specified by the latest file information stored in the non-volatile storing area.

This reference data file is the data file which is identified as the last data file into which content data was being written prior to a power failure or other abnormality and into which the

writing of content data should be resumed after the power has turned back on or the abnormality has ceased.

The Sakuramoto, et al. published application, on the other hand, describes a procedure in which the position of the disk on which the content data is stored is periodically sampled (for example, every one minute) to determined the last known video reproducing position on the disk prior to the power failure. It is possible that a large amount of content data could be lost if the sampling rate is made relatively large. With Applicant's claimed invention, however, the maximum amount of content data that could possibly be lost is limited to the size of the reference data file.

Accordingly, the Sakuramoto, et al. published application teaches a different method and apparatus for solving the problem of data loss when there is a power failure from what is set forth Claims 1-16 of the pending application.

Furthermore, an important distinction between the claimed invention and the apparatus and method disclosed in the Sakuramoto, et al. published application is that the Sakuramoto, et al. apparatus and method relate to an interruption in the power at a time of "reproduction" of recorded data. More specifically, and with particular reference to paragraph [0011] of the Sakuramoto, et al. published application, which passage is relied on extensively by the Examiner in his rejection of the claims, and elsewhere in the Sakuramoto, et al. published application, the object of the invention in the Sakuramoto, et al. published application is stated to provide a "reproducing" apparatus of information recording media (such as on a compact disc), "whereby the reproduction can be done continuously from the reproduction interruption position, or from the beginning of a title, a chapter or a disc, at the user's selection when the power source including power supply is turned ON again, even the case where the power supply is abruptly turned OFF or is cut off under such the bad condition of the electric power supply source, and further in the case where the power button is erroneously turned OFF without the operation of the above last memory instruction key."

The claimed invention, on the other hand, relates to an interruption in power or another abnormality during "recording", that is, when writing content into a data file of a non-volatile storing area. As can be seen, the claims relate to a "content recording" apparatus or a "content recording" method, not a reproducing apparatus and method as described in the Sakuramoto, et al. published application.

As described in the specification of Applicant's pending application, in turning the power on, the information is read to determine the situation at the end of the previous recording, that is, whether the writing of the content is suspended due to an abnormality, such as a sudden shut off of the power, and at a time of the abnormal end of writing, the index data is scanned to seek the discontinued point to determine the writing starting location.

In the information file, at the respective times of the record starting (i.e., resume) and record stop, the tags indicative of the respective operations, and in reading-out, if there is the tag of record end (REC_END), then the normal end (of recording) is determined, and if such a tag is not detected by the device, then it is determined that recording has abnormally ended. Such is not taught or suggested by the Sakuramoto, et al. published application, which only discloses reproduction processing.

Furthermore, Applicant would like to point that the term "non-volatile storing area" used in the claims may be a non-volatile semiconductor memory, but also refers to areas of a hard disk, and the recording may be performed on the hard disk.

Applicant would also like to specifically call the Examiner's attention to pending Claim 2. Claim 2 specifically calls for a detector for detecting a "data discontinued point" from the reference data file. No such "data discontinued point" is taught or suggested in the Sakuramoto, et al. published application.

Accordingly, to even further distinguish the claimed invention from the Sakuramoto, et al. published application, Claim 2 has been cancelled and the limitations set forth therein, including

a detector for detecting a "data discontinued point" from the reference data file, have now been incorporated into main Claim 1. As such, it is respectfully urged that Claim 1, as now more specifically amended, patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

Claims 3 and 5 have been amended so that they now depend directly from Claim 1. Thus, Claims 3 through 7, which depend directly or indirectly from Claim 1, as now more specifically amended, are respectfully urged to patentably distinguish over the Sakuramoto, et al. published application for the same reasons previously discussed with respect to amended Claim 1 and are allowable.

Claim 8 is the corresponding method claim to Claim 1. Claim 8 is also specifically directed to a "content recording" method, as opposed to a "reproduction" method disclosed in the Sakuramoto, et al. published application. As such, the comments of Applicant in support of the patentability of Claim 1 over the Sakuramoto, et al. published application are applicable with respect to independent method Claim 8.

Furthermore, independent method Claim 8 has now been more specifically amended to include steps (d), (e), (f) and (g), which steps respectively correspond to the marker writer, the determiner (first recited), the detector and the determiner (second recited) which had been defined by Claim 2 (now cancelled) and which have now been incorporated into main Claim 1. The steps of writing a marker into the non-volatile storing area, determining whether or not the marker exists before starting the writing operation, detecting a data discontinued point, and determining a writing starting location, as now more specifically set forth in Claim 8, are not taught or suggested by the Sakuramoto, et al. published application. Accordingly, for these reasons, and for the reasons submitted previously with respect to amended Claim 1, it is respectfully urged that independent method Claim 8, as now more specifically amended, patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

Claim 9 is in independent form, and defines Applicant's "content recording" apparatus. Again, it is respectfully urged that Applicant's "content recording" apparatus is completely different from the "reproduction" apparatus disclosed in the Sakuramoto, et al. published application. Furthermore, and as mentioned previously with respect to Claim 1, the Sakuramoto, et al. reproduction method periodically samples the content data that is stored to determine the last known video "reproducing" position on the disk prior to the power failure. Again, a large amount of content data could be lost by this method if the sampling rate is made relatively large.

With Applicant's "content recording" apparatus defined by Claim 9, there is a detector for detecting a temporal discontinuing point based on time information before a "recording" operation of the "recorder" is started, and the location of starting "recording" of the content data is determined based on the temporal discontinuing point detected by the detector. In essence, not only does the Applicant by his apparatus set forth in Claim 9 address the problem of a power failure during the recording process, whereas the Sakuramoto, et al. published application discloses addressing a power failure during a "reproduction" process, but also Applicant's apparatus set forth in Claim 9 has different structure and works in a different manner from the reproduction apparatus and method disclosed in the Sakuramoto, et al. published application. Accordingly, it is respectfully urged that independent apparatus Claim 9 patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

It should be noted that a minor amendment was made to Claim 9 to clarify that the data file in which content data is recorded is "within a recording medium".

Claims 10-13 depend directly or indirectly from independent apparatus Claim 9 and, as such, incorporate all the limitations of Claim 9. Accordingly, it is respectfully urged that Claims 10-13 patentably distinguish over the Sakuramoto, et al. published application for the same reasons previously discussed with respect to Claim 9 and are allowable.

Independent method Claim 14 defines method steps which correspond to the structure set forth in independent apparatus Claim 9. Claim 14, again, relates to a "content recording"

method, as opposed to the reproduction method disclosed in the Sakuramoto, et al. published application. Furthermore, Claim 14 includes the step (c) of detecting a "temporal discontinuing point" of the index data based on the time information before a "recording" operation is started. No such temporal discontinuing point is disclosed in the Sakuramoto, et al. published application, and the Sakuramoto, et al. published application discloses a method which performs periodic sampling of the position of the disk on which the content data is stored to determine the last known video "reproducing" position on the disk prior to the power failure, which method is entirely different from Applicant's recording method set forth in independent Claim 14, as discussed previously. Accordingly, it is respectfully urged that Claim 14 patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

It should also be noted that a minor amendment was made to Claim 14 to define the recording of the content data into a data file that is "within a recording medium", in the same manner that corresponding independent apparatus Claim 9 was amended.

Claim 15 is also in independent form. It also defines Applicant's "content recording" apparatus, which functions differently and includes different structure from the "reproduction" apparatus disclosed in the Sakuramoto, et al. published application. The apparatus defined by Claim 15 stores a writing location at a time that the "recording" is suspended, and furthermore, includes a detector which detects a "temporal discontinued point", and a first setter which sets a first record starting location at a location that corresponds to the temporal discontinued point detected by the detector. As stated previously, the Sakuramoto, et al. published application teaches a procedure in which the position of the disk on which the content data is stored is periodically sampled to determine the last known video "reproducing" position on the disk prior to the power failure. There is no "temporal discontinued point" described in the Sakuramoto, et al. published application, and the Sakuramoto, et al. apparatus includes different structure and functions in a different manner from the structure and method of operation of Applicant's "content recording" apparatus defined by Claim 15, as described previously with respect to the

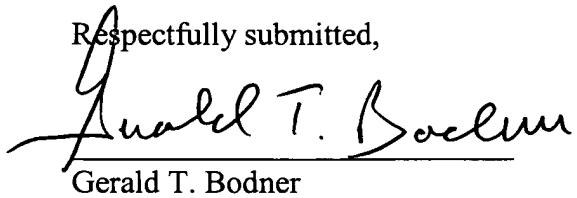
other claims. As such, it is respectfully urged that Claim 15 patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

Claim 16 depends from Claim 15 and, accordingly, incorporates all of the limitations of Claim 15, including the temporal discontinued point. As such, it is respectfully urged that Claim 16 patentably distinguishes over the Sakuramoto, et al. published application for the same reasons previously discussed with respect to Claim 15 and is allowable.

In view of the foregoing amendments and remarks, entry of the amendments to the specification and Claims 1, 3, 5, 8, 9 and 14, favorable reconsideration of Claims 1 and 3-16 and allowance of the application with Claims 1 and 3-16 are respectfully solicited. It is respectfully urged that no new matter has been added to the claims by the amendments made herein and that no further search on the merits is required by the amendments to the claims. Also, it is respectfully urged that the amendments to the claims place the application in proper form for allowance or appeal.

If the Examiner has any questions or suggestions which may help expedite the prosecution of this application to a favorable conclusion, it is respectfully requested that he contact the undersigned attorney at the telephone number given below. Any suggestions by the Examiner would be gratefully appreciated and strongly considered.

Respectfully submitted,



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